



INTERIOR BOARD OF INDIAN APPEALS

Umpqua Watersheds, Inc., et al. v. Northwest Regional Director,
Bureau of Indian Affairs

38 IBIA 10 (07/22/2002)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

UMPQUA WATERSHEDS, INC., et al.,	:	Order Dismissing Appeal as Moot
Appellants	:	
	:	
v.	:	
	:	Docket No. IBIA 01-165-A
	:	
NORTHWEST REGIONAL DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	July 22, 2002

This is an appeal from a July 9, 2001, decision of the Northwest Regional Director, Bureau of Indian Affairs (Regional Director; BIA), dismissing an appeal concerning the Chu-aw Clau-she timber sale on the Coquille Indian Reservation. Appellants are Umpqua Watersheds, Inc., Friends of the Coquille River, Coast Range Association, and Oregon Natural Resources Council. The Regional Director dismissed their appeal in part as untimely and in part for lack of standing. For the reasons discussed below, the Board dismisses this appeal as moot.

After briefing in this appeal was completed, Appellants submitted additional documents showing, among other things, that on January 3, 2002, BIA was added as a defendant in Pacific Coast Federation of Fishermen's Ass'ns v. National Marine Fisheries Service, Civ. No. C00-1757R (W.D. Wash.), in which two of the Appellants here (Umpqua Watersheds, Inc., and Oregon Natural Resources Council) are plaintiffs.

As it appeared from Appellants' submission that the Federal court litigation involved some or all of the same issues Appellants seek to raise in this appeal, the Board ordered the parties to brief the question of whether this appeal had become moot. All parties have responded.

The Regional Director and the Coquille Tribe argue that this appeal is moot. Both contend that the subject matter of this appeal and the Federal court litigation is identical with respect to BIA and the Chu-aw Clau-she timber sale. The Regional Director notes that the District Court has enjoined the timber sale.

Appellants concede that the underlying issue in this appeal, i.e., Appellants' challenge to the Chu-aw Clau-she timber sale, is also raised in the Federal court litigation. Indeed, they concede that that issue has been resolved in Federal court. They contend, however, that two issues that were not raised in the Federal court litigation should be addressed by the Board--whether Appellants have standing to challenge the timber sale and whether BIA followed proper procedures under the National Environmental Policy Act. Appellants contend that they need decisions on these issues for purposes of future timber sales. In essence, they concede that they are seeking an advisory opinion from the Board.

The Board has previously stated that it lacks authority to issue advisory opinions. Narconon Chilocco New Life Center v. Superintendent, Pawnee Agency, 29 IBIA 234 (1996). It will not issue such an opinion in this case.

As the underlying issue in this appeal is already in Federal court, and the only issues arguably remaining would require an advisory opinion from the Board, the Board concludes that this appeal is moot.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is dismissed as moot.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge